

ORDINANCE NO. G-09-06-11-9A

AN ORDINANCE AMENDING CHAPTER 6, SECTION 6.100, CODE OF ORDINANCES (1995 EDITION), CITY OF ROUND ROCK, TEXAS, REGARDING STAGNANT WATER, FILTH, WEEDS, AND RUBBISH; AND PROVIDING FOR A SAVINGS CLAUSE AND REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROUND ROCK, TEXAS:

I.

That Chapter 6, Section 6.100, Code of Ordinances (1995 Edition), City of Round Rock, Texas, is hereby amended to read as follows:

SECTION 6.100 STAGNANT WATER, FILTH, WEEDS, AND RUBBISH

6.101 DEFINITIONS

For purposes of this section, the terms used herein shall have the following meanings:

- (1) Abate shall mean to eliminate or remedy by removal, repair, rehabilitation, demolition, remediation, storage, transportation, disposal or other means of waste management.
- (2) Building shall mean a structure built for the support, shelter, or enclosure of a person, animal, chattel, machine, equipment, or other moveable property.
- (3) Brush shall mean scrub vegetation, dense undergrowth or piles of such scrub vegetation, dense undergrowth or tree limbs that have been cut.
- (4) Carrion shall mean the dead and putrefying flesh of any animal.
- (5) Filth shall mean any matter in a putrescence state.
- (6) Garbage shall mean all decayable wastes.
- (7) Impure or Unwholesome Matter shall mean any matter which tends to, may, or could produce injury, death, or disease in human beings.
- (8) Non-platted Vacant Property shall mean property that contains no buildings and for which there is not a final plat on file with the City of Round Rock.
- (9) Objectionable, Unsightly or Insanitary Matter shall mean any matter, condition, or object which could attract rodents, reptiles or insects, or which causes material distress or discomfort to a person of ordinary sensibilities.
- (10) Occupied shall mean that there is a building on the property for which a temporary or final certificate of occupancy has been issued or that there is a residential building that has passed a final inspection.

- (11) Owner shall mean a person having title to, or claiming, occupying, or having supervision or control of real property.
- (12) Person shall mean any individual, firm, partnership, association, business, corporation or other entity.
- (13) Platted Vacant Property shall mean property that contains no structures and for which there is a final plat on file with the City of Round Rock.
- (14) Premises shall mean all privately owned property, including vacant land or a building designed or used for residential, commercial, business, industrial or religious purposes. The term includes a yard, ground, walk, driveway, fence, porch, steps, or other structure appurtenant to the property, any easements on the property, and the area from the boundary line of the property to the paved surface of the street or curb line adjacent to the property.
- (15) Refuse shall mean an accumulation of worn out, used up, broken, rejected, or worthless materials, and includes discarded household appliances, garbage, rubbish, paper, or litter, and other decayable or nondecayable waste, including vegetable matter and animal and fish carcasses.
- (16) Rubbish shall mean nondecayable waste from a public or private establishment or residence.
- (17) Weeds shall mean all rank and uncultivated vegetable growth or matter that may create an unsanitary condition or become a harborage for rodents, vermin or other disease-carrying pests regardless of the height of the weeds.

6.102 PLACES WHERE WATER MAY ACCUMULATE PROHIBITED

It is hereby declared to be a nuisance and it shall be unlawful for any owner of real property within the City to permit or allow holes or places on such Premises where water may accumulate and become stagnant or to permit same to remain.

6.103 ACCUMULATION OF STAGNANT WATER PROHIBITED

It is hereby declared to be a nuisance and it shall be unlawful for any owner of real property within the City to permit or allow the accumulation of stagnant water on such Premises to permit same to remain, or to cause the accumulation of stagnant water on adjacent property.

6.104 ACCUMULATION OF ANY CARRION, FILTH OR OTHER UNWHOLESOME MATTER PROHIBITED

It is hereby declared to be a nuisance and it shall be unlawful for any owner of real property within the City to permit or allow any carrion, filth, garbage, refuse, trash, discarded household items, or other impure or unwholesome matter to accumulate or remain on such Premises.

6.105 ACCUMULATION OF RUBBISH, BRUSH, ETC., PROHIBITED

It is hereby declared to be a nuisance and it shall be unlawful for any owner of real property within the City to permit rubbish, brush or any objectionable, unsightly or insanitary matter to accumulate upon any such Premises.

6.106 ADDITIONAL NUISANCES PROHIBITED

It is hereby declared to be a nuisance and it shall be unlawful for any person to:

- (1) maintain a building in a manner that is structurally unsafe or constitutes a hazard to safety, health, or public welfare because of inadequate maintenance, unsanitary conditions, dilapidation, obsolescence, disaster, damage, or abandonment or because it constitutes a fire hazard;
- (2) maintain a flea market in a manner that constitutes a fire hazard;
- (3) maintain Premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin or disease-carrying pests;
- (4) discard refuse or create a hazardous visual obstruction on City owned land or easements;
- (5) fill or block a drainage easement, fail to maintain a drainage easement, maintain a drainage easement in a manner that allows the easement to be clogged with debris, sediment or vegetation, or violate an agreement with the City to improve or maintain a drainage easement; or
- (6) discard refuse on property that is not authorized for that activity.

6.107 ACCUMULATION OF WEEDS

- (1) It is hereby declared to be a nuisance and it shall be unlawful for any owner of real property within the City, other than real property zoned for agricultural use, to permit weeds, brush or other vegetation on such Premises to exceed the heights set forth below:
 - (a) twelve inches (12") on property zoned and occupied for any use other than agricultural;
 - (b) twelve inches (12") on all property located within 150 feet of property zoned and occupied for any use other than agricultural;
 - (c) twenty-four inches (24") on Platted Vacant Property located more than 150 feet from property zoned and occupied for any use other than agricultural; and
 - (d) thirty-six inches (36") on Non-platted Vacant Property located more than 150 feet from property zoned and occupied for any use other than agricultural.
- (2) During the period beginning on March 1 and ending June 15 of each year, property containing concentrated wildflowers in areas where grasses and weeds do not exceed twenty-four inches (24") in height is exempt from the provisions of this subsection.

6.108 OWNER TO ABATE NUISANCES AFTER NOTIFICATION

- (1) Any owner of real property in the City that permits or allows any condition declared a nuisance in this Section 6.100 on such Premises shall abate said nuisance within seven (7) days after the City serves the owner with notice as set forth below.
- (2) If the owner of property in the City does not abate the nuisance by the seventh (7th) day after notice is served, the City may:
 - (a) do the work or make the required improvements; and

- (b) pay for the work done or improvements made and charge the expenses to the owner of the property.
- (3) A notice under this Section 6.108 is served on the date that the notice is:
 - (a) personally delivered to the owner in writing;
 - (b) mailed to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; or
 - (c) if personal service cannot be obtained:
 - (i) published at least once in a newspaper of general circulation within the City;
 - (ii) posted on or near the front door of a building on the property; or
 - (iii) posted on a placard attached to a stake driven into the ground on the property, if the property contains no structures.
- (4) If the City mails a notice to a property owner in accordance with subsection (3), and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as served on the date that such notice was mailed.
- (5) In a notice provided under this subsection, the City may inform the owner that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the City without further notice may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by a notice under this subsection occurs within the one-year period, and the City has not been informed in writing by the owner of an ownership change, then the City without notice may take any action permitted by this subsection and assess its expenses as provided below.

6.109 CHARGES FOR REMOVAL BY CITY TO BE ASSESSED TO OWNER

The charges and expenses incurred by the City under Subsection 6.108 shall be assessed against the real property on which the work is done or improvements made. The charges to be collected by the City under this subsection shall include, in addition to the aforesaid costs, the sum of one hundred fifty dollars (\$150.00) per lot or tract of land, which sum is hereby found to be the cost to the City of administering the terms of this Section.

6.110 CITY TO HAVE PRIVILEGED LIEN

The mayor, municipal health authority, or municipal official designated by the mayor shall cause a statement of such expenses incurred under Section 6.109 to be filed with the County Clerk of the county in which the real property upon which said work was done or improvements made is located. The lien statement must state the name of the owner, if known, and the legal description of the property. The City shall have a privileged lien on such real property upon which said work was done or improvements made to secure the expenditures so made and interest accruing at the rate of ten (10) percent on the amount due from the date of payment by the City, in accordance with the provisions of Section 342.007 Texas Health and Safety Code, V.T.C.A. The lien shall be inferior only to tax liens and liens for street improvements. The statement of expenses, or a certified copy thereof, shall be prima facie proof of the expenses incurred by the City in doing the work or making the improvements.

It is further provided that the City may bring suit for foreclosure in the name of the City to recover the expenditures and interest due.

6.111 ADDITIONAL AUTHORITY TO ABATE DANGEROUS WEEDS

- (1) The City may abate, without notice, weeds that:
 - (a) have grown higher than 48 inches; and
 - (b) are an immediate danger to the health, life, or safety of any person.
- (2) Not later than the 10th day after the date the City abates weeds under this subsection, the City shall give notice to the property owner in the manner required by Section 6.108.
- (3) The notice shall contain:
 - (a) an identification, which is not required to be a legal description, of the property;
 - (b) a description of the violations of the ordinance that occurred on the property;
 - (c) a statement that the City abated the weeds; and
 - (d) an explanation of the property owner's right to request an administrative hearing about the City's abatement of the weeds.
- (4) The City shall conduct an administrative hearing on the abatement of weeds under this subsection if, not later than the 30th day after the date of the abatement of the weeds, the owner of the real property files with the City Secretary a written request for a hearing.
- (5) An administrative hearing conducted under this subsection shall be conducted not later than the 20th day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the City's abatement of the weeds.
- (6) The City may assess expenses and create liens under this subsection as it assesses expenses and creates liens under Section 6.109. A lien created under this section is subject to the same conditions as a lien created under Section 6.110.

6.112 ADDITIONAL AUTHORITY TO ABATE DANGEROUS NUISANCES

- (1) The City may abate, without notice, any nuisance that is an immediate danger to the health, life, or safety of any person.
- (2) Not later than the 10th day after the date the City abates any nuisance under this subsection, the City shall give notice to the property owner in the manner required by Section 6.108.
- (3) The notice shall contain:
 - (a) an identification, which is not required to be a legal description, of the property;
 - (b) a description of the violations of the ordinance that occurred on the property;
 - (c) a statement that the City abated the nuisance; and

- (d) an explanation of the property owner's right to request an administrative hearing about the City's abatement of the nuisance.
- (4) The City shall conduct an administrative hearing on the abatement of a nuisance under this subsection if, not later than the 30th day after the date of the abatement of the nuisance, the owner of the real property files with the City Secretary a written request for a hearing.
- (5) An administrative hearing conducted under this subsection shall be conducted not later than the 20th day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the City's abatement of the weeds.
- (6) The City may assess expenses and create liens under this subsection as it assesses expenses and creates liens under Section 6.109. A lien created under this section is subject to the same conditions as a lien created under Section 6.110.

6.113 LIABILITY OF OFFICERS OF CORPORATION

In case the owner or occupant of any real property, lot, lots or Premises under the provisions of this section shall be a corporation or other entity, and shall violate any provision of this section, the President, Vice-President, Secretary, Treasurer, or other officers of such corporation or entity shall be also severally liable for the penalties provided in this Code.

II.


A. All ordinances, parts of ordinances, or resolutions in conflict herewith are expressly repealed.

B. The invalidity of any section or provision of this ordinance shall not invalidate other sections or provisions thereof.

C. The City Council hereby finds and declares that written notice of the date, hour, place and subject of the meeting at which this Ordinance was adopted was posted and that such meeting was open to the public as required by law at all times during which this Ordinance and the subject matter hereof were discussed, considered and formally acted upon, all as required by the Open Meetings Act, Chapter 551, Texas Government Code, as amended.

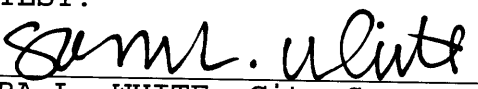
READ and APPROVED on first reading this the 29th day of May, 2009.

READ, APPROVED and ADOPTED on second reading this the 11th day of June, 2009.



ALAN MCGRAW, Mayor
City of Round Rock, Texas

ATTEST:



SARA L. WHITE, City Secretary

DATE: June 5, 2009

SUBJECT: City Council Meeting – June 11, 2009

ITEM: *9A1. Consider an ordinance amending Chapter 6, Section 6.100, Code of Ordinances, regarding stagnant water, filth, weeds and rubbish. (Second Reading)

Department: Planning and Community Development

Staff Person: Jim Stendebach, Planning and Community Development Director

Justification:

Section 6.100 “stagnant water, filth, weeds and rubbish” requires updating to ensure enforceability and address issues brought by Citizens. The ordinance amendments include the following:

1. Definitions have been added. In particular owner now includes tenants as well as the owner.
2. Declares accumulation of stagnant water, trash and high weeds to be a nuisance.
3. Extends the owners responsibility to include maintenance of easements on the property and the area of the public Right-of-Way between the curb and the property line.
4. Maintain a building that is structurally unsafe, unsanitary or constitutes a fire hazard.
5. Defines what constitutes high weeds as a nuisance.
 - a. 12” on developed non agricultural property
 - b. 12” on vacant property within 150 feet of non agricultural uses
 - c. 24” on vacant plotted property over 150 feet from a non agricultural use
 - d. 36” on non platted property over 150 feet from a non agricultural use
6. Enforcement is unchanged.
7. The administrative fee for abatement by the City is increased to \$150.00 from \$120.00.
8. Provides for extra ordinary abatement by City where weeds exceed 48 inches and are an immediate danger to health and safety.
9. Provide for an administrative hearing when nuisance is removed under the extra ordinary clause.

Funding:

Cost: N/A

Source of funds: N/A

Outside Resources: N/A

Background Information: N/A

Public Comment: N/A